IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE SIDE

APPEAL FROM ORDER NO.1146 OF 2005

with

CIVIL APPLICATION NO.1417 OF 2005

Shri Jairpakash Bhayalal Gupta & Ors. ..Appellants

Versus

Municipal Corporation of Gr. Bombay

and Anr. ..Respondents

Mr.Y.S.Jahagirdar, Sr.Advocate with G.S.Godbole for appellants

Mrs. Geeta Joglekar for BMC

CORAM : A.M.KHANWILKAR,J.

DATE : 8TH FEBRUARY, 2006.

P.C.:

1. Heard the learned counsel for the parties. Perused the relevant materials on record.

2. In view of the findings noted in para 4 of the impugned order that the plaintiffs are not paying any ground rent to the Corporation; nor the area occupied by the hawkers belonging to the plaintiffs is earmarked for hawking zone; or that the plaintiffs have been issued any hawking licence, no fault can be found in the order of the lower court in refusing to grant ad-interim relief as prayed on the basis of observations of the Apex Court in the case of **M.E.H. Union Vs. Municipal Corporation, Greater Mumbai reported in 2003 AIR SCW 6814**. Accordingly there is no substance in this Appeal from Order, the same will have to be dismissed and stands dismissed.

3. In view of this order the Civil Application also stands disposed of.

4. Mr.Jahagirdar, the learned counsel for the appellants submits that the appellants will avail of the remedy of making representation before the Committee for permitting the plaintiffs to carry on activities in the offending areas. If such application is made by the plaintiffs the same be decided in its own merits and in accordance with law.